

**TRANSMITTAL AND NOTICE OF APPROVAL OF
STATE PLAN MATERIAL**

FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER:

0 1 - 0 0 9

2. STATE:

North Dakota

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL
SECURITY ACT (MEDICAID)

TO: REGIONAL ADMINISTRATOR
HEALTH CARE FINANCING ADMINISTRATION
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

June 1, 2001

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN

☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN

☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

Section 1917(c) and (d) of the Act

7. FEDERAL BUDGET IMPACT:

a. FFY 2001 \$ None

b. FFY 2002 \$ None

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Supplement 9(a) to Attachment 2.6-A page 5

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION
OR ATTACHMENT (If Applicable):

Supplement 9(a) to Attachment 2.6-A page 5

10. SUBJECT OF AMENDMENT:

Eligibility - transfer of assets

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT

☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED

☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL

☐ OTHER, AS SPECIFIED:

12. SIGNATURE OF STATE AGENCY OFFICIAL:

Sheldon Wolf

13. TYPED NAME:

Sheldon Wolf

14. TITLE:

Assistant Director, Medical Services

15. DATE SUBMITTED:

June 29, 2001

16. RETURN TO:

David J. Zentner
Director, Medical Services
North Dakota Department of Human Services
600 E Boulevard Ave Dept 325
Bismarck ND 58505

FOR REGIONAL OFFICE USE ONLY

17. DATE RECEIVED:

July 9, 2001

18. DATE APPROVED:

8/13/01

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

6/1/01

20. SIGNATURE OF REGIONAL OFFICIAL:

Spencer K. Ericson

21. TYPED NAME:

Spencer K. Ericson

22. TITLE:

Acting Associate Regional Administrator

23. REMARKS:

POSTMARK: June 29, 2001

State: North Dakota

TRANSFER OF ASSETS

11. Imposition of a penalty would work an undue hardship--

The agency does not apply the transfer of assets provisions in any case in which the agency determines that such an application would work an undue hardship. The agency will use the following procedures in making undue hardship determinations:

- a. The transfer of asset provisions are not applied to the extent the unpaid nursing care bills:
 - (1) Total more than the uncompensated value of income and assets transferred for less than fair market value;
 - (2) Are not subject to payment by any third party; and
 - (3) Have been incurred during times when the individual did not have assets in excess of the appropriate asset level.
- b. An applicant or recipient who claims that income or assets were transferred exclusively for a purpose other than to qualify for Medicaid must show that a desire to receive Medicaid benefits played no part in the decision to make the transfer.

The following criteria will be used to determine whether the agency will not count assets transferred because the penalty would work an undue hardship:

- a. The amount of the unpaid nursing care costs, incurred during periods when the individual had no excess assets, is compared to the uncompensated value of all disqualifying transfers. If the unpaid bills are greater, an alternative penalty period is established effective with the first day of the month in which the individual has no excess assets. The length of the alternative penalty period is equal to the amount of the uncompensated value of the transfers, divided by the monthly unpaid nursing care charges incurred by the individual on or after the beginning of the alternative penalty period. This can have the affect of shortening the original penalty period due to the increased nursing care costs.
- b. An applicant or recipient can demonstrate that a transfer for less than market value was made for purposes other than to qualify for Medicaid by showing that:
 - (1) The individual's assets (and the assets of the individual's spouse) remaining after the transfer produce income which, when added to other income available to the individual (and to the individual's spouse), totals an amount sufficient to meet all living expenses and medical costs reasonably anticipated to be incurred by the individual (and by the individual's spouse) for thirty-six months (sixty months in the case of a transfer to a trust) beginning with the month of transfer; or